

# Exhibit “A”

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS/

ALBERT J. GATTI,

PLAINTIFF,

-AGAINST-

LUXOR LIMO INC. AND SHLOMO CHKIFATI,

DEFENDANTS.

INDEX NO.

DATE S/C FILED: 1/12/16

PLAINTIFF(S) DESIGNATE(S)  
RICHMOND

COUNTY AS THE PLACE OF TRIAL.

BASIS OF THE VENUE IS  
DEFENDANT'S RESIDENCE

SUMMONS

PLAINTIFF(S) RESIDE(S) AT  
MONROE, NJ

COUNTY OF ORANGE

To the above named Defendant(s)

YOU ARE HEREBY SUMMONED, to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney(s) within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: STATEN ISLAND, NEW YORK  
JANUARY 4, 2016

CHELLI & BUSH, ESQS.  
ATTORNEYS FOR PLAINTIFF  
149 NEW DORB LANE  
STATEN ISLAND, NEW YORK 10306  
(718) 987-8444

Defendant's address:  
LUXOR LIMO INC.  
502 AVENUE U  
BROOKLYN, NEW YORK 11223  
SHLOMO CHKIFATI  
502 AVENUE U  
BROOKLYN, NEW YORK 11223

Notice: The nature of this action is negligence.  
The relief sought is money damages

Upon your failure to appear, judgment will be taken against you by default for the sum of \$  
"THE JURISDICTION OF THE DEFENDANT, LUXOR LIMO INC. HAS BEEN OBTAINED  
UNDER SECTION 306 OF THE BUSINESS CORPORATION LAW."

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

X  
INDEX #  
DATE S/C FILED:

ALBERT J. GATTI,

PLAINTIFF,

-against-

VERIFIED COMPLAINT

LUXOR LIMO INC. AND SHLOMO CHKIFATI,

DEFENDANTS.

X

PLAINTIFF, COMPLAINING OF THE DEFENDANTS, BY HIS  
ATTORNEYS, CHELLI & BUSH, RESPECTFULLY SETS FORTH TO THIS COURT  
AND ALLEGES:

AS AND FOR A FIRST CAUSE OF ACTION ON  
BEHALF OF PLAINTIFF, ALBERT J. GATTI

FIRST: PLAINTIFF, ALBERT J. GATTI, AT THE  
TIME OF THE INSTITUTION OF THIS ACTION, IS A RESIDENT OF THE  
COUNTY OF ORANGE, STATE OF NEW JERSEY.

SECOND: UPON INFORMATION AND BELIEF, AT ALL  
TIMES HEREINAFTER MENTIONED, DEFENDANT, LUXOR LIMO INC., IS A  
DOMESTIC BUSINESS CORPORATION DULY ORGANIZED AND EXISTING  
PURSUANT TO THE LAWS OF THE STATE OF NEW YORK.

THIRD: UPON INFORMATION AND BELIEF, AT ALL  
TIMES HEREINAFTER MENTIONED, DEFENDANT, SHLOMO CHKIFATI, IS A  
RESIDENT OF THE COUNTY OF KINGS, STATE OF NEW YORK.

FOURTH: UPON INFORMATION AND BELIEF, THAT

LAW OFFICES  
CHELLI & BUSH  
139 NEW DORD LANE  
STATEN ISLAND NY  
10306  
(718) 987-8664  
(718) 987-8187

AT ALL THE TIMES HEREIN MENTIONED, THE DEFENDANT, LUXOR LIMO INC., WAS THE OWNER OF A CERTAIN 2012 CHRYSLER MOTOR VEHICLE BEARING NEW YORK STATE REGISTRATION PLATE NUMBER 14924LV.

FIFTH: UPON INFORMATION AND BELIEF, THAT

~~AT ALL THE TIMES HEREIN MENTIONED, THE DEFENDANT SHLOMO CHKIFATI~~ WAS THE OPERATOR OF A CERTAIN 2012 CHRYSLER MOTOR VEHICLE BEARING NEW YORK STATE REGISTRATION PLATE NUMBER 14924LV.

SIXTH: UPON INFORMATION AND BELIEF, THAT

~~AT ALL THE TIMES HEREIN MENTIONED, THE DEFENDANT, LUXOR LIMO INC.~~ WAS THE OWNER OF A CERTAIN 2012 CHRYSLER MOTOR VEHICLE BEARING NEW YORK STATE REGISTRATION PLATE NUMBER 14924LV WHICH WAS THEN AND THERE BEING OPERATED BY DEFENDANT, SHLOMO CHKIFATI WITH THE PERMISSION OF THE DEFENDANT OWNER, LUXOR LIMO INC.

SEVENTH: UPON INFORMATION AND BELIEF, THAT

~~AT ALL THE TIMES HEREIN MENTIONED, THE DEFENDANT, LUXOR LIMO INC.~~ WAS THE OWNER OF A CERTAIN 2012 CHRYSLER MOTOR VEHICLE BEARING NEW YORK STATE REGISTRATION PLATE NUMBER 14924LV WHICH WAS THEN AND THERE BEING OPERATED BY DEFENDANT, SHLOMO CHKIFATI WITH THE CONSENT OF THE DEFENDANT OWNER, LUXOR LIMO INC.

EIGHTH: UPON INFORMATION AND BELIEF, THAT

~~AT ALL THE TIMES HEREIN MENTIONED, THE DEFENDANT, LUXOR LIMO INC.~~ WAS THE OWNER OF A CERTAIN 2012 CHRYSLER MOTOR VEHICLE BEARING NEW YORK STATE REGISTRATION PLATE NUMBER 14924LV WHICH WAS THEN AND THERE BEING OPERATED BY DEFENDANT, SHLOMO CHKIFATI WITH THE KNOWLEDGE OF THE DEFENDANT, LUXOR LIMO INC.

NINTH: UPON INFORMATION AND BELIEF, THAT

~~AT ALL THE TIMES HEREIN MENTIONED, THE DEFENDANT, LUXOR LIMO INC.~~

LAW OFFICES  
CHELLI & BUSH  
14 NEW CORP LANE  
STATEN ISLAND, NY  
10306  
(718) 987-8444  
FAX (718) 667-8167

WAS THE REGISTRANT OF A CERTAIN 2012 CHRYSLER MOTOR VEHICLE  
BEARING NEW YORK STATE REGISTRATION PLATE NUMBER 14924LV.

TENTH: UPON INFORMATION AND BELIEF, THAT  
AT ALL THE TIMES HEREIN MENTIONED, THE DEFENDANT, SHLOMO CHKIFATI  
WAS THE OPERATOR OF A CERTAIN 2012 CHRYSLER MOTOR VEHICLE BEARING  
NEW YORK STATE REGISTRATION PLATE NUMBER 14924LV.

ELEVENTH: UPON INFORMATION AND BELIEF, THAT  
AT ALL THE TIMES HEREIN MENTIONED, THE DEFENDANT, LUXOR LIMO INC.  
WAS THE REGISTRANT OF A CERTAIN 2012 CHRYSLER MOTOR VEHICLE  
BEARING NEW YORK STATE REGISTRATION PLATE NUMBER 14924LV WHICH  
WAS THEN AND THERE BEING OPERATED BY DEFENDANT, SHLOMO CHKIFATI  
WITH THE PERMISSION OF THE DEFENDANT REGISTRANT, LUXOR LIMO INC.

TWELFTH: UPON INFORMATION AND BELIEF, THAT  
AT ALL THE TIMES HEREIN MENTIONED, THE DEFENDANT, LUXOR LIMO INC.  
WAS THE REGISTRANT OF A CERTAIN 2012 CHRYSLER MOTOR VEHICLE  
BEARING NEW YORK STATE REGISTRATION PLATE NUMBER 14924LV WHICH  
WAS THEN AND THERE BEING OPERATED BY DEFENDANT, SHLOMO CHKIFATI  
WITH THE CONSENT OF THE DEFENDANT REGISTRANT, LUXOR LIMO INC.

THIRTEENTH: UPON INFORMATION AND BELIEF, THAT  
AT ALL THE TIMES HEREIN MENTIONED, THE DEFENDANT, LUXOR LIMO INC.  
WAS THE REGISTRANT OF A CERTAIN 2012 CHRYSLER MOTOR VEHICLE  
BEARING NEW YORK STATE REGISTRATION PLATE NUMBER 14924LV WHICH  
WAS THEN AND THERE BEING OPERATED BY DEFENDANT, SHLOMO CHKIFATI  
WITH THE KNOWLEDGE OF THE DEFENDANT REGISTRANT, LUXOR LIMO INC.

FOURTEENTH: ON THE 17TH DAY OF DECEMBER, 2014,  
DEFENDANT, SHLOMO CHKIFATI WAS THE OPERATOR OF THE AFORESAID 2012  
CHRYSLER MOTOR VEHICLE PROCEEDING UPON HAMILTON AVENUE, IN THE

COUNTY OF KINGS, STATE OF NEW YORK.

~~- FIFTEENTH:~~ - ON THE 17TH DAY OF DECEMBER, 2014,

~~PLAINTIFF, ALBERT J. GATTI WAS THE OPERATOR OF A CERTAIN 2010 CHEVROLET MOTOR VEHICLE BEARING NEW YORK STATE REGISTRATION PLATE NUMBER AB1235 PROCEEDING UPON HAMILTON AVENUE, IN THE COUNTY OF KINGS, STATE OF NEW YORK.~~

~~SIXTEENTH: THAT ON THE 17TH DAY OF DECEMBER,~~

~~2014, AT APPROXIMATELY 3:30 P.M., THE DEFENDANTS' VEHICLE AND PLAINTIFF'S VEHICLE CAME INTO CONTACT WITH ONE ANOTHER.~~

~~SEVENTEENTH: THAT THE SAID OCCURRENCE WAS CAUSED SOLELY BY REASON OF THE NEGLIGENCE OF THE DEFENDANTS IN THE OWNERSHIP, OPERATION, MAINTENANCE AND CONTROL OF THEIR MOTOR VEHICLE, DESCRIBED AS AFOREMENTIONED AND WITHOUT ANY NEGLIGENCE ON THE PART OF THE PLAINTIFF CONTRIBUTING THERETO.~~

~~EIGHTEENTH: THAT HAMILTON AVENUE, IN THE COUNTY OF KINGS, STATE OF NEW YORK WAS AND STILL IS A PUBLIC ROADWAY IN USE BY THE RESIDENTS THEREOF AND OTHERS.~~

~~NINETEENTH: THE DEFENDANTS ON THE 17TH DAY OF DECEMBER, 2014, AT APPROXIMATELY 3:30 P.M., WERE RECKLESS, CARELESS AND NEGIGENT, IN FAILING TO KEEP THE SAID MOTOR VEHICLE UNDER PROPER MANAGEMENT AND CONTROL, IN FAILING TO OBSERVE THE CONDITIONS ON THE ROADWAY, AND HAVE A DUE, TIMELY, ADEQUATE AND PROPER LOOKOUT, IN FAILING TO GIVE ANY NOTICE, WARNING OR SIGNAL OF THEIR APPROACH, IN OPERATING THE SAID VEHICLE AT AN EXCESSIVE RATE OF SPEED, INCONSISTENT WITH THE EXERCISE OF REASONABLE AND DUE CARE, UNDER THE CONDITIONS AND CIRCUMSTANCES EXISTING IMMEDIATELY PRIOR TO AND AT THE TIME OF THE OCCURRENCE, IN~~

FAILING TO MAKE ADEQUATE, PROPER AND TIMELY USE OF THE BRAKES, IN FAILING TO KEEP THE SAID MOTOR VEHICLE AT A REASONABLE AND SUFFICIENT DISTANCE, SO AS TO BRING IT TO A STOP IN SUFFICIENT TIME TO AVOID STRIKING PLAINTIFF'S VEHICLE, IN CAUSING AND PERMITTING THE SAID VEHICLE OF THE DEFENDANTS TO BE OPERATED AT A SPEED BEYOND ITS BRAKING POWER, IN FAILING TO OBSERVE THE RULES OF THE ROAD, AND WAS UNDER ALL THE FACTS AND CIRCUMSTANCES, RECKLESS, CARELESS AND NEGLIGENT IN THAT DEFENDANTS' VEHICLE STRUCK PLAINTIFF'S VEHICLE IN THE REAR, CAUSING THE PLAINTIFF SUSTAIN SEVERE AND SERIOUS PERSONAL INJURIES.

TWENTIETH: UPON INFORMATION AND BELIEF, THAT

~~DEFENDANTS WERE NEGLIGENT AND CARELESS IN FAILING AND OMITTING TO HAVE THEIR VEHICLE EQUIPPED AND MAINTAINED WITH GOOD AND SUFFICIENT WORKING MECHANICAL CONTRIVANCES, PARTICULARLY THE BRAKING, VIEWING, STEERING AND SIGNALING DEVICES AND OTHER FUNCTIONING PARTS OF SAID AUTOMOBILE.~~

TWENTY-FIRST: PLAINTIFF, ALBERT J. GATTI IS NOT

~~SUBJECT TO THE LIMITATIONS OF ARTICLE 16 OF THE CPLR, PURSUANT TO THE EXCLUSIONS THEREIN.~~

TWENTY-SECOND: AS A RESULT OF THE FOREGOING, THE

~~PLAINTIFF, ALBERT J. GATTI, SUSTAINED A SERIOUS INJURY AS DEFINED IN SUBDIVISION (d) OF SECTION 5102 OF THE INSURANCE LAW OF THE STATE OF NEW YORK.~~

TWENTY-THIRD: THAT AS A RESULT OF THE AFORESAID,

~~THE PLAINTIFF, ALBERT J. GATTI, WAS DAMAGED IN THE SUM THAT EXCEEDS THE JURISDICTIONAL LIMIT OF ALL LOWER COURTS WHICH WOULD OTHERWISE HAVE JURISDICTION.~~

LAW OFFICES  
CHELLI & BUSH  
149 NEW DOOR LANE  
STATEN ISLAND NY  
10306  
(718) 987-8444  
FAX (718) 667-8187

WHEREFORE, PLAINTIFF, ALBERT J. GATTI, DEMANDS JUDGMENT AS AGAINST THE DEFENDANTS ON THE FIRST CAUSE OF ACTION AND THE AMOUNT OF DAMAGES SOUGHT EXCEEDS THE JURISDICTIONAL LIMIT OF ALL LOWER COURTS WHICH WOULD OTHERWISE HAVE JURISDICTION.

DATED: DECEMBER 29, 2015  
STATEN ISLAND, N.Y.

YOURS, ETC.,

CHELLI & BUSH  
ATTORNEYS FOR PLAINTIFF  
149 NEW DORP LANE  
STATEN ISLAND, NY 10306  
(718) 987-8444

BY: MICHAEL H BUSH

LAW OFFICES  
CHELLI & BUSH  
149 NEW DORP LANE  
STATEN ISLAND, NY  
10306  
(718) 987-8444  
FAX (718) 986-78107

STATE OF NEW YORK )  
COUNTY OF RICHMOND ) SS.:

GEORGE NAPOLI, BEING DULY SWORN, DEPOSES AND SAYS:

THAT HE IS THE ATTORNEY FOR THE PLAINTIFF, ALBERT J. GATTI.

THAT HE HAS READ THE FOREGOING COMPLAINT AND KNOWS THE CONTENTS THEREOF; THAT THE SAME IS TRUE TO HIS OWN KNOWLEDGE, EXCEPT AS TO THE MATTERS THEREIN STATED TO BE ALLEGED ON INFORMATION AND BELIEF, AND THAT AS TO THOSE MATTERS HE BELIEVES IT TO BE TRUE.

THAT THE REASON THIS VERTIFIED COMPLAINT IS MADE BY YOUR DEPONENT AND NOT BY THE PLAINTIFF, IS THAT THE PLAINTIFF IS NOT NOW WITHIN THE COUNTY WHERE YOUR DEPONENT HAS HIS OFFICE.

THAT THE SOURCES OF DEPONENT'S INFORMATION AND THE GROUNDS OF DEPONENT'S BELIEF AS TO ALL MATTERS THEREIN NOT STATED UPON HIS OWN KNOWLEDGE, ARE INVESTIGATIONS WHICH DEPONENT HAS CAUSED TO BE MADE AND INFORMATION ACQUIRED BY DEPONENT IN THE COURSE OF HIS DUTIES AS ATTORNEY IN THIS MATTER.

---

GEORGE NAPOLI

SWORN TO BEFORE ME THIS  
4<sup>TH</sup> DAY OF JANUARY, 2016

---

NOTARY PUBLIC

LAW OFFICES  
CHELLI & BUSH  
149 NEW YORK LANE  
STATEN ISLAND, N.Y.  
10306  
(718) 987-6444  
FAX (718) 687-8187

Notary Public  
Commonwealth of New York  
County of Richmond  
Notary Public  
Commissioned January 2016  
George Napoli

# Exhibit “B”

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

X

ALBERT J. GATTI,

Plaintiff,

VERIFIED  
ANSWER

-against-

Index No.:  
328/16

LUXOR LIMO, INC. AND SHLOMO CHKIFATI,

Defendants.

X

Defendants, LUXUR LIMO, INC. and SHLOMO CHKIFATI, by their attorneys, GOLDBERG SEGALLA LLP, answering the Verified Complaint of the Plaintiff herein, upon information and belief, allege:

AS TO THE FIRST CAUSE OF ACTION ON  
BEHALF OF PLAINTIFF, ALBERT J. GATTI

FIRST: Deny having knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph "FIRST" of the Verified Complaint.

SECOND: Deny upon information and belief each and every allegation contained in the paragraph of the Verified Complaint therein designated "SEVENTEENTH".

THIRD: Deny having knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph "EIGHTEENTH" of the Verified Complaint.

FOURTH: Deny each and every allegation contained in the paragraphs of the Verified Complaint therein designated "NINETEENTH" and "TWENTIETH".

FIFTH: Deny having knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in paragraph "TWENTY-FIRST" of the Verified Complaint, and respectfully refer all questions of law to this Honorable Court.

SIXTH: Deny upon information and belief each and every allegation contained in the paragraph of the Verified Complaint therein designated "TWENTY-SECOND".

SEVENTH: Deny each and every allegation contained in the paragraph of the Verified Complaint therein designated "TWENTY-THIRD".

AS AND FOR A FIRST SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE

EIGHTH: That whatever injuries and/or damages were sustained by the Plaintiff at the time and place alleged in the Verified Complaint were caused in whole or in part as a result of the Plaintiff's own culpable conduct. That if the Plaintiff is entitled to any recovery herein, such recovery shall be diminished in the proportion which said culpable conduct attributable to the Plaintiff bears to the entire culpable conduct concerning the subject occurrence.

AS AND FOR A SECOND SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE

NINTH: That whatever injuries and damages Plaintiff may have sustained at the time and place alleged in the Complaint were caused and brought about by reason of the failure of the Plaintiff to have utilized available seatbelts. Consequently, the Plaintiff is barred from recovering damages for any injuries which were caused or brought about by reason of the Plaintiff's failure to utilize available seatbelts.

AS AND FOR A THIRD SEPARATE AND COMPLETE  
AFFIRMATIVE DEFENSE

TENTH: Upon information and belief, any past or future costs or expenses incurred or to be incurred by the Plaintiff for medical care, dental care, custodial care or rehabilitative services, loss of earnings or other economic loss, has been or will with reasonable certainty be

replaced or indemnified in whole or in part from a collateral source as defined in §4545(c) of the Civil Practice Law and Rules and, therefore, any judgment awarded to the Plaintiff in this action shall be reduced by the amount of any past or future cost or expense which has or will be replaced or indemnified in whole or in part from said collateral source.

WHEREFORE, the Defendants, LUXUR LIMO, INC. and SHLOMO CHKIFATI, respectfully demand judgment against the Plaintiff dismissing the Verified Complaint herein with costs or, in the alternative, if the Verified Complaint shall not be dismissed the amount of damages otherwise recoverable against said Defendants shall be diminished in the proportion, which the culpable conduct attributable to the Plaintiff bears to the culpable conduct, if any, of the Defendants together with the costs and disbursements of this action.

Dated: Garden City, New York  
May 6, 2016

Yours, etc.,

GOLDBERG SEGALLA LLP

By: Paul S. Devine

Paul S. Devine

Attorneys for Defendants  
LUXUR LIMO, INC. and SHLOMO CHKIFATI  
200 Garden City Plaza  
Suite 520  
Garden City, New York 11530  
(516) 281-9800  
GS File No.: 9101.0246

VERIFICATION

STATE OF NEW YORK )  
                        ) ss.:  
COUNTY OF NASSAU )

PAUL S. DEVINE, an attorney duly admitted to practice law in the Courts of the State of New York, affirms the following to be true under the penalties of perjury:

1. I am the attorney for the answering Defendants, LUXUR LIMO, INC. and SHLOMO

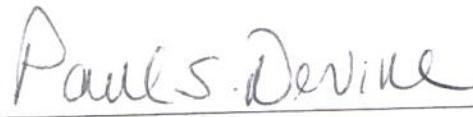
CHKIFATI.

2. I have read the annexed Verified Answer to Verified Complaint and know the contents thereof and the same

are true to my knowledge except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true. My belief as to those matters therein not stated upon knowledge is based on the files maintained in my office.

3. The reason that this Verification is made by your affirmant and not by the Defendants is that the Defendants are not in the County in which I maintain my office.

Dated: Garden City, New York  
May 6, 2016

  
\_\_\_\_\_  
PAUL S. DEVINE

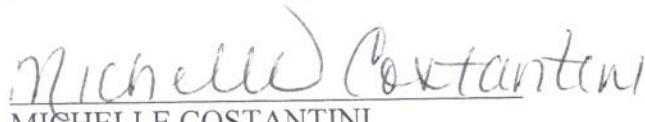
AFFIDAVIT OF SERVICE

MICHELLE COSTANTINI, being duly sworn deposes and says, that deponent is not a party to this action, is over 18 years of age and resides in Hollis Hills, New York.

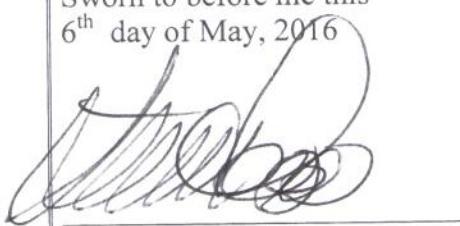
That on the 6<sup>th</sup> day of May, 2016, deponent served a copy of the within VERIFIED ANSWER upon:

CHELLI & BUSH  
Attorneys for Plaintiff  
149 New Dorp Plane  
Staten Island, New York 10306

by depositing the enclosed in a stamped envelope in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York

  
MICHELLE COSTANTINI

Sworn to before me this  
6<sup>th</sup> day of May, 2016



NOTARY PUBLIC

STEPHANIE INZERILLO  
Notary Public, State of New York  
New York City 2013  
Qualified in Nassau County   
Commission Expires April 18, 2018

# Exhibit “C”

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-X

ALBERT J. GATTI,

Plaintiff,

DEMAND  
PURSUANT  
TO CPLR  
§ 3017(c)

-against-

LUXOR LIMO INC. AND SHLOMO CHKIFATI,

Index No.:  
328/16

Defendants.

-X

PLEASE TAKE NOTICE, that, pursuant to § 3017(c) of the Civil Practice Law and Rules, Defendants, LUXOR LIMO, INC. and SHLOMO CHKIFATI, demand that you furnish the undersigned, within fifteen (15) days of service of this Demand, with a statement setting forth the total damages to which Plaintiff deems herself entitled in this action.

Dated: Garden City, New York  
May 11, 2016

Yours, etc.,

GOLDBERG SEGALLA LLP

By: Paul S. Devine  
Paul S. Devine  
Attorneys for Defendants  
LUXUR LIMO, INC. and SHLOMO CHKIFATI  
200 Garden City Plaza  
Suite 520  
Garden City, New York 11530  
(516) 281-9800  
GS File No.: 9101.0246

TO: CHELLI & BUSH  
Attorneys for Plaintiff  
149 New Dorp Plane  
Staten Island, New York 10306

AFFIDAVIT OF SERVICE

MICHELLE COSTANTINI, being duly sworn deposes and says, that deponent is not a party to this action, is over 18 years of age and resides in Hollis Hills, New York.

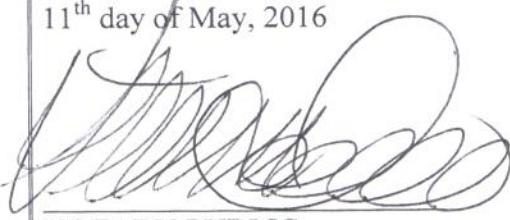
That on the 11<sup>th</sup> day of May, 2016, deponent served a copy of the within DEMAND PURSUANT TO CPLR § 3017 ( c ) upon:

CHELLI & BUSH  
Attorneys for Plaintiff  
149 New Dorp Plane  
Staten Island, New York 10306

by depositing the enclosed in a stamped envelope in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York

  
MICHELLE COSTANTINI  
MICHELLE COSTANTINI

Sworn to before me this  
11<sup>th</sup> day of May, 2016

  
NOTARY PUBLIC

STEPHANIE INZERILLO  
Notary Public, State of New York  
No. 01IN5026493  
Qualified in Suffolk County  
Commission Expires April 18, 

# Exhibit “D”

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
ALBERT J. GATTI,

Plaintiff,

Index No.: 328/16

-against-

LUXOR LIMO, INC. AND SHLOMO CHKIFATI,

Defendant(s).

-----X

PLAINTIFF and DEFENDANTS, by and through their attorneys of record, herein stipulate and agree to the entering of the following:

WHEREAS, plaintiff has now stipulated that he is not seeking damages in excess of \$75,000.00 and further stipulates and agrees that he has no right of recovery against defendants in any amount over \$75,000.00 and further stipulates and agrees that should the case proceed to trial and a verdict be entered against defendants in excess of \$75,000.00 that the portion of the verdict which exceeds \$75,000.00 will not be enforced and defendants' liability will be limited to \$75,000.00. Further, any judgment will be entered in an amount not to exceed \$75,000.00.

IT IS FURTHER STIPULATED AND AGREED that this Stipulation may be executed in multiple counterparts and a faxed or scanned signature shall be deemed an original. This Stipulation may be filed without further notice with the Clerk of the Court.

Dated: Garden City, New York  
September 6, 2016

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Robert W. Berbenich, Esq.  
Goldberg Segalla LLP  
Attorneys for Defendants  
200 Garden City Plaza – Suite 520  
Garden City, NY 11530  
(516) 281-9800  
GS File No: 9101.0246

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By:  
Chelli & Bush, Esqs.  
Attorneys for Plaintiff  
149 New Dorp Lane  
Staten Island, New York 10306  
(718) 987-8444

91010246  
C

September 6, 2016

Via U.S. Mail and Facsimile: (718) 667-8187

Chelli & Bush, Esqs.  
 149 New Dorp Lane  
 Staten Island, New York 10306

**Re: Gatti v. Luxor Limo, Inc., et al.**

Venue: Supreme Court Kings County  
 Index: 328/2016  
 Date of Loss: 12/17/14  
 GS File No: 9101.0246

Counselors:

Please accept this letter as a good faith attempt to secure a response to our Demand Pursuant to CPLR § 3017(c). To date, we have not received a response to same. A courtesy copy is enclosed for your reference.

Please be advised we intend to remove this case to the United State District Court for the Eastern District of New York based on diversity jurisdiction unless you are willing to stipulate that the plaintiff is not seeking damages in excess of \$75,000.00. Enclosed please find a stipulation limiting plaintiff's potential recovery to \$75,000.00. Please respond to our Demand Pursuant to CPLR § 3017(c) and/or return the executed Stipulation to the undersigned's attention no later than October 6, 2016. If the executed Stipulation is not received by that date, we will accept same to mean you believe damages to be in excess of \$75,000.00 and will proceed to remove the matter to the United State District Court for the Eastern District of New York.

Thank you for your anticipated cooperation. Please feel free to contact me should you require anything further.

Very truly yours,



Robert W. Berbenich

RWB/

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
ALBERT J. GATTI,

Plaintiff,

Index No.: 328/16

-against-

LUXOR LIMO, INC. AND SHLOMO CHKIFATI,

Defendant(s).

-----X

PLAINTIFF and DEFENDANTS, by and through their attorneys of record, herein stipulate and agree to the entering of the following:

WHEREAS, plaintiff has now stipulated that he is not seeking damages in excess of \$75,000.00 and further stipulates and agrees that he has no right of recovery against defendants in any amount over \$75,000.00 and further stipulates and agrees that should the case proceed to trial and a verdict be entered against defendants in excess of \$75,000.00 that the portion of the verdict which exceeds \$75,000.00 will not be enforced and defendants' liability will be limited to \$75,000.00. Further, any judgment will be entered in an amount not to exceed \$75,000.00.

IT IS FURTHER STIPULATED AND AGREED that this Stipulation may be executed in multiple counterparts and a faxed or scanned signature shall be deemed an original. This Stipulation may be filed without further notice with the Clerk of the Court.

Dated: Garden City, New York  
September 6, 2016

---

Robert W. Berbenich, Esq.  
Goldberg Segalla LLP  
Attorneys for Defendants  
200 Garden City Plaza – Suite 520  
Garden City, NY 11530  
(516) 281-9800  
GS File No: 9101.0246

---

By:  
  
Chelli & Bush, Esqs.  
Attorneys for Plaintiff  
149 New Dorp Lane  
Staten Island, New York 10306  
(718) 987-8444



GOLDBERG SEGALLA

Attorneys at Law

200 Garden City Plaza / Suite 520 / Garden City, NY 11530 516.281.9800 FAX 516.281.9801 [www.goldbergsegalla.com](http://www.goldbergsegalla.com)

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

COURTESY COP

-----X  
ALBERT J. GATTI,

Plaintiff,

-against-

DEMAND  
PURSUANT  
TO CPLR  
§ 3017(c)

LUXOR LIMO INC. AND SHLOMO CHKIFATI,

Index No.:  
328/16

Defendants.

-----X

PLEASE TAKE NOTICE, that, pursuant to § 3017(c) of the Civil Practice Law and Rules, Defendants, LUXOR LIMO, INC. and SHLOMO CHKIFATI, demand that you furnish the undersigned, within fifteen (15) days of service of this Demand, with a statement setting forth the total damages to which Plaintiff deems herself entitled in this action.

Dated: Garden City, New York  
May 11, 2016

Yours, etc.,

GOLDBERG SEGALLA LLP

By: Paul S. Devine  
Paul S. Devine

Attorneys for Defendants  
LUXUR LIMO, INC. and SHLOMO CHKIFATI  
200 Garden City Plaza  
Suite 520  
Garden City, New York 11530  
(516) 281-9800  
GS File No.: 9101.0246

TO: CHELLI & BUSH  
Attorneys for Plaintiff  
149 New Dorp Lane  
Staten Island, New York 10306



GOLDBERG SEGALLA LLP  
*Attorneys at Law*

Long Island: 200 Garden City Plaza / Suite 520, Garden City, New York 11530-3203  
516.281.9800 / FAX 516.281.9801

To: Chelli & Bush, Esqs.

Fax No.: (718) 667-8187

Phone No.:

From: Robert W. Berbenich, Esq.

Date: September 7, 2016

Total Pages: 5 (including cover)

Re: Gatti v. Luxor Limo Inc., et al

Comments: Please see attached correspondence.

Thank you.

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If there are any problems with this transmission,  
please call 516.281.9823.

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5492331.1

\* \* \* COMMUNICATION RESULT REPORT ( SEP. 7.2016 3:57PM ) \* \* \*

P. 1  
FAX HEADER 1: GOLDBERGSEGALLA  
FAX HEADER 2:TRANSMITTED/STORED : SEP. 7. 2016 3:55PM  
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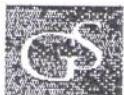
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REASON FOR ERROR  
E-1) HANG UP OR LINE FAIL  
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*Attorneys at Law*Long Island: 200 Garden City Plaza / Suite 520, Garden City, New York 11530-3203  
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# Exhibit “E”

# CHELLI & BUSH

Michael H Bush, Esq.

Robert D. Bush, Esq.\*\*

Helen M. Rosenblatt, Esq.

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September 14, 2016

Goldberg Segalla, LLP  
200 Garden City Plaza, Suite 520  
Garden City, New York 11530  
Attn: Robert W. Berbenich

Re: Gatti v. Luxor Limo, Inc., et al.

Index No.: 328/2016

DOL: 12/17/14

Your File No.: 9101.0246

Dear Mr. Berbenich,

I am writing in response to your letter dated September 8, 2016 requesting responses to your initial discovery demands dated May 6, 2016. Please be advised, in accordance to your previous letter dated September 6, 2016, our office is awaiting for the subject matter to be removed to the United States District Court to proceed with further pleadings.

Thank you. If I can be of any further assistance please do not hesitate to contact me.

Respectfully,



Kathryn Cafaro